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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,414	09/18/2003	Shih Fan Tsai	4101CN	7457

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EXAMINER

KRAMER, DEVON C

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/666,414

Applicant(s)

TSAI, SHIH FAN

Examiner

Devon C Kramer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 4-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2) Claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshigai (4838387) in view of Tseng (5996743).

In re claim 1, Yoshigai provides a brake device comprising: a holder seat (5) for attaching to a bicycle, at least one brake arm (3, 4) pivotally attached to said holder seat with a shaft (2), and including a brake shoe (1) attached thereto for braking the cycle, at least one pole (9) attached to said holder seat, and including a stud (9) provided on one end thereof, and a coil spring (6) engaged onto said shaft, and including a first end engaged with said at least one brake arm (8), and a second end engaged with said stud of said at least one pole, to apply a spring biasing force against said at least one brake arm and to recover said at least one brake arm. Please note that the pole piece (9) of Yoshigai can be considered to be a stud. Yoshigai lacks the teaching of an oblong hole to adjust the spring biasing force.

Tseng teaches the use of an oblong hole (13) to slidably receive a pole (3) to adjust a spring force including a fastener (4).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the pole of Yoshigai with an oblong hole as taught by Tseng

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in order to provide a means to adjust the spring force and since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. In re Stevens, 101 USPQ 284 (CCPA 1954).

In re claim 7, Yoshigai lacks the teaching of an oblong hole in the holder seat to attach the holder seat to the bicycle.

The use of oblong holes in bicycle brake parts is notorious as demonstrated by Tseng (11, 13) to allow for brake part adjustment.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the holder seat of Yoshigai with an oblong hole as seen in Tsai since the oblong hole enables adjustability of the device and since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. In re Stevens, 101 USPQ 284 (CCPA 1954).

3) Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshigai (4838387) in view of Tseng (5996743) and further in view of Gelbein (5503252) and further in view of Yoshikawa (5464074).

Both Yoshigai and Tseng lack the teaching of an oblong depression.

Gelbein teaches the use of an oblong depression (50) along an oblong hole for an adjustment in a bicycle brake.

It would have been obvious to one of ordinary skill in the art to have provided the brake device of Yoshigai as modified by Tseng with an oblong depression as taught by Gelbein merely to provide a seating surface for the pole piece flush with the brake member.

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Yoshigai, Tseng and Gelbein lack the teaching of an enlarged head.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the brake device of Yoshigai as modified by Tseng and further modified by Gelbein with an enlarged stop head as taught by Yoshikawa in order to prevent the spring from slipping or coming off the pole piece and rendering the brake unoperational.

4) Claims 5-6 rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshigai (4838387) in view of Tseng (5996743) and further in view of Yoshikawa (5464074).

In re claim 5, Yoshigai as modified by Tseng lacks the teaching of a pole including an enlarged stop panel.

Yoshikawa teaches the use of a pole (29d) with an enlarged stop panel to form a peripheral groove where one end of a coil spring is attached.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the pole of Yoshigai as modified by Tseng with an enlarged stop panel as taught by Yoshikawa in order to prevent the spring from slipping or coming off the pole piece and rendering the brake unoperational.

In re claim 6, Yoshigai as modified by Tseng lacks the teaching of a hook or a recess on the spring.

Yoshikawa teaches the use of a hook and recess on the spring (21B) to receive a stud (29d).

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It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the spring of Yoshigai as modified by Tseng with the spring as taught by Yoshikawa in order to prevent the spring from slipping or coming off the pole piece and rendering the brake unoperational.

5) Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshigai (4838387) in view of Tseng (5996743) and further in view of Yang (6415690).

Both Yoshigai and Tseng lack the teaching of a cap threaded on and received in the oblong hole.

Yang teaches the use of a cap (70) thread on and received in an oblong hole, the cap having a flat surface to engage the sides of the oblong hole.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the brake assembly of Yoshigai as modified by Tseng with the cap as taught by Yang merely to prevent the screw / cap mechanism from becoming loose.

Response to Arguments

6) Applicant's arguments filed 7/14/04 have been fully considered but they are not persuasive. Applicant argues that the cited arts fail to teach a fastener (70) threaded with a screw hole (17) of a holder seat (10), and engageable with a pole (50), to move and adjust the pole (50) along an oblong hole (14) of the holder seat (10), and to stably adjust the spring biasing force of a coil spring (40) applied against a brake arm (30). Applicant's claim as amended cites these features, but Tseng is used to teach the

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fastener 4 with a screw hole 13 of a holder seat 1, and engageable with a pole 3, to move and adjust the pole along the oblong hole 13 of the holder seat. Please note that movement of the pole 3 of Tseng adjusts the spring force. The pole and adjustment assembly of Tseng can be easily incorporated into the assembly of Yoshigai in order to adjust the spring force. Further, many aspects of applicant's arguments argue points which are not present in the claims.

Conclusion

7) THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devon C Kramer whose telephone number is 703-305-0839. The examiner can normally be reached on Mon-Fri 8-4.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DK

Robert A. Sicomolfi 8/16/04
ROBERT A. SICOMOLFI
PATENT EXAMINER